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JUL 23 1996

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

July 23, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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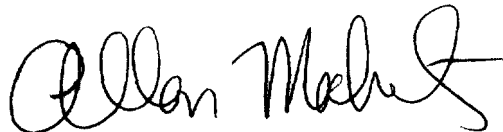
Re: NEW - Channel 45  
Cheney, Washington

Dear Mr. Caton:

Transmitted herewith is an original and four (4) copies of a "Petition for Rulemaking" to allot Channel 45 to Cheney, Washington, as its first local transmission television service. A contingent application for construction permit for a new television station to operate on Channel 45 at Cheney, Washington, is being transmitted simultaneously under separate cover. A request for waiver of Sections 73.607 and 73.3517 of the Commission's rules is included in the application.

Should any questions arise concerning this matter, please contact the undersigned counsel.

Respectfully submitted,



Allan G. Moskowitz  
Counsel for Pelican Broadcasting Company

Enclosures

No. of Copies rec'd 014  
List A B C D E  
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BEFORE THE  
**Federal Communications Commission**  
WASHINGTON, D.C. 20554

RECEIVED

JUL 23 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
 )  
Amendment of Section 73.606(b) of the ) MM Docket No. \_\_\_\_\_  
Commission's Rules, TV Table of Allotments, ) RM No. \_\_\_\_\_  
to allot Channel 45 to Cheney, Washington )

To: Chief, Allocations Branch

**PETITION FOR RULEMAKING**

Pelican Broadcasting Company, by counsel, and pursuant to Section 1.401 of the Commission's rules, hereby requests the Commission to institute a rulemaking proceeding for the purpose of amending the TV Table of Allotments to allot Channel 45 to Cheney, Washington, as that community's first local television service. Pelican Broadcasting Company proposes to amend Section 73.606(b) of the Commission's rules as follows:

<u>City</u>	<u>Present</u>	<u>Channel No.</u> <u>Proposed</u>
Cheney, Washington	- - -	45-

No change in the existing allotments is requested. In support of this request, the following is stated:

The city of Cheney, Washington, is an incorporated community with a 1990 U.S. Census population of 7,723. It has its own post office and zip code, and is served by least one bank, as well as the Union Pacific and Burlington Northern railroads.

As demonstrated in the attached engineering exhibit, the coordinates of the proposed site meet the minimum distance separation requirements with respect to all known licenses, construction permits, pending applications, and pending rulemaking proceedings.

As stated above, the allotment of Channel 45 will provide Cheney with a first local television service, which will promote the objectives of Section 307(b) of the Communications Act of providing a fair, efficient and equitable distribution of television broadcast stations among the various States and communities. 47 U.S.C. §307(b). See National Broadcasting Co. v. U.S., 319 U.S. 190, 217 (1943) (describing goal of Communications Act to "secure the maximum benefits of radio to all the people of the United States"); FCC v. Allentown Broadcasting Co., 349 U.S. 358, 359-62 (1955) (describing goal of Section 307(b) to "secure local means of expression"). In addition, the proposed allotment will promote the second television allotment priority established in the Sixth Report and Order in Docket Nos. 8736 and 8975, 41 FCC 148, 167 (1952), of providing each community with at least one television broadcast station. The proposed allotment also will permit an additional network to serve the Spokane television market. Therefore, the allotment will serve the public interest.

Contemporaneously herewith, the petitioner is filing an application for a construction permit for the new facility contingent upon the grant of the proposed allotment. In the event its application is granted, the petitioner will promptly construct the new facility.

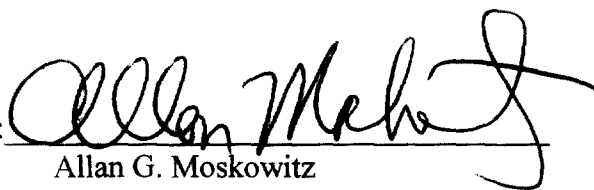
WHEREFORE, in light of the foregoing, Pelican Broadcasting Company respectfully requests the Commission to GRANT this petition for rulemaking, AMEND the TV Table of

Allotments, and ALLOT Channel 45 to Cheney, Washington, as that community's first local television service.

Respectfully submitted,

Pelican Broadcasting Company

By:

A handwritten signature in black ink, appearing to read "Allan Moskowitz", written over a horizontal line.

Allan G. Moskowitz

Its Counsel

Kaye, Scholer, Fierman.  
Hays & Handler, LLP  
901 15th Street, N.W.  
Suite 1100  
Washington, D.C. 20005

July 23, 1996

**WES, INC.**  
5925 CROMO DR.  
EL PASO, TX 79912

915-581-0306

**ENGINEERING EXHIBIT RM:**

For Cheney, WA  
CH 45

JUNE 14, 1996


ENGINEERING STATEMENT IN SUPPORT OF A  
PETITION FOR RULE MAKING  
**TO AMEND**  
THE TV TABLE OF ASSIGNMENTS

**WES, INC.**

**DECLARATION**

**I, Pete E. M. Warren III, declare and state that I am a Certified Engineer, Class I, Senior, with Master Endorsement radiating and non-radiating, by The National Association of Radio and Telecommunications Engineers, Inc., and my qualifications are a matter of record with the Federal Communications Commission, and that I am an engineer in the firm of WES, Inc., and that the firm has been retained to prepare an engineering statement in support of a Petition to Amend the TV Table of Assignments.**

**All facts contained herein are true to my knowledge except where stated to be on information or belief, and as to those facts, I believe them to be true. All Exhibits were prepared by me or under my supervision. I declare under penalty of perjury that the foregoing is true and correct.**

  
**Pete E. M. Warren III**

**Executed on the 14th day of June, 1996**

## **Narrative Statement**

### **I. General**

The purpose of this engineering statement is to support a request that the TV Table of Assignments be amended to add Ch. 45 at Cheney, WA. The proposed channel has no short-spacing, as can be seen by the channel spacing study. A contingent application will be submitted.

It should be noted that the area in question is within 320 kilometers (200 miles) of a US Border and, therefore, foreign concurrence is required.

### **II. ENGINEERING DISCUSSION**

#### **A. Proposed site:**

We propose a site located at the following coordinates:

Latitude: 47 35 42

Longitude: 117 19 53

The allocation can be made within a wide area.

#### **B. Channel Allocation Study**

Exhibit 1 is a Channel Allocation Study of channel 45. The study indicates the required separation in kilometers to all known Licenses, Construction Permits, Open Allocations, pending Allocations, and pending Rule Makings.

Exhibit 2 is a map of the resulting arcs indicating minimum separation south of the blue line, showing area to locate.

**C. Public Interest Showing:**

1. This would be the first allotment to Cheney, WA. The petitioner believes that the requested channel addition is in the Public Interest and, therefore, should be granted by the Commission.
2. An additional station in the area would allow for carriage of a fifth network.

**III. SUMMARY**

Petitioner request that the TV Table of Assignments be amended as follows:

<b>City</b>	<b>Present</b>	<b>Proposed</b>
Cheney, WA	None	45-

June 14, 1996

  
Pete E.M. Warren III

## EXHIBIT #1

CHANNEL ALLOCATION STUDY

\*\*\*\*\*

TV CHANNEL SPACING STUDY

\*\*\*\*\*

by WES Inc.

Job title: CHENEY WA

Latitude: 47 35 42

Channel: 45

Longitude: 117 19 53

Database file name: c:\tvsrc\tv960524.edx

CH	Call	Record No.	City	ST	Z	STS	Bear.	Dist.	Reqd. Dist.	Result
45o	ALLOTM	12144	KELOWNA	BC	2		329.0	299.7	280.8	18.9

\*\*\*\*\* End of channel 45 study \*\*\*\*\*

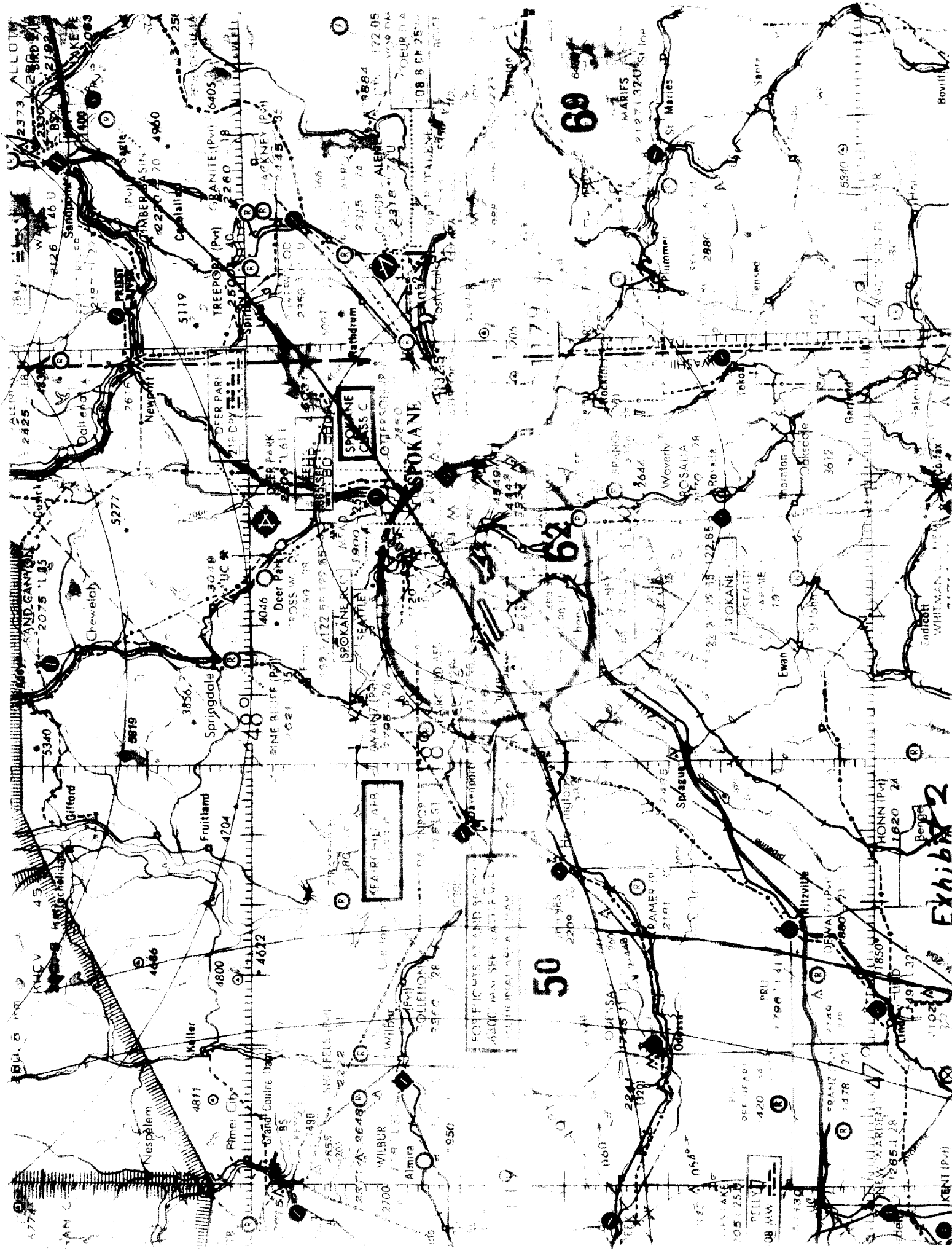



Exhibit 2

**CERTIFICATE OF SERVICE**

I, Diane E. Bateman, hereby certify that on this 23rd day of July, 1996, a copy of the foregoing "Petition for Rulemaking" was hand-delivered to the following:

Mr. Roy J. Stewart, Chief  
Mass Media Bureau  
Federal Communications Commission  
1919 M Street, N.W., Room 314  
Washington, DC 20554

  
Diane E. Bateman